IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.272 OF 1991

The State of Maharashtra. .. **Appellant.**

v/s.

1. M/s.S.S.Willson & Com.
   15-A, Raviwar Peth, Akkalkot
   Road, Solapur.

2. Vithal Rajaram Shriram,
   Age: Major, Occ.Business,
   R/o H.No.1503, New Pacha Peth,
   Solapur.(Dead)(deleted as per
   Court's order dated 17/8/91)

3. Sudarshan Narasaya Shriram
   Age: Major, occ.Business,
   R/o 1504, New Pacha Peth,
   Solapur.

4. Kisan Dubayya Shriram,
   Age: Major, Occ. Business,
   R/o as above.

5. Smt.Shakuntala Murlidhar Shriram
   Age:Major, Occ.Business,
   R/o 1503,New Pacha Peth, Solapur.

6. Shriprakash Vyankayya Madur.
   Age:Major, Occ.Business,
   R/o 209, Sakhar Peth, Solapur.

7. Shri Prasad Laxminarayan Shriram,
   Age: Major, Occ.Business,
   R/o 1503, New Pacha Peth, Solapur. .. **Respondents**

Shri B.H.Mehta, APP for appellant.

None for respondents.

CORAM: V.M.KANADE, J.

DATE : 25TH NOVEMBER, 2004,

ORAL JUDGMENT :-

. The Government has challenged the Judgment and order passed by the Judicial Magistrate First Class in Regular Criminal Case No.49/86. By the said Judgment and order dated 15/1/1991, the Trial court convicted the original Accused No.1 and 3 to 7 for having committed an offence punishable under section 276-B of the Income Tax Act, 1961 and the accused were sentenced to suffer simple imprisonment till rising of the Court and to pay fine of Rs.100/- each i.d. to suffer S.I. for 7 days.

2. Prosecution case is that the accused No.1 is registered partnership firm and accused No.2 to 7 are the partners. As per the provisions of Section 194-A of the Income Tax Act, 1961, the firm was required to deduct tax at 10 percent on the interest credited to the accounts of the partners. On failure to make the payment, complaint was lodged. The Trial Court held that there was non-compliance of the said provisions and therefore, convicted the accused under section 276-B of the Income Tax Act and sentenced them to suffer simple imprisonment till rising of the court and to pay fine of Rs.100/-each. The state has preferred an appeal seeking enhancement in the said punishment.

3. In my view no case is made out for interfering with the Judgment and order passed by the Judicial Magistrate First Class. It is admitted position that the accused have paid tax dues with penalty and interest even before the commencement of the assessment during the pendency of the trial. The Managing Partner Vithal Shriram died due to heart decease. Thus there was no preliminary intention on the part of the respondents. I do not see any reason to interfere in the said Judgment and order. Appeal accordingly dismissed.

4. Criminal Appeal Nos. 284 of 1991 and 285 of 1991 to be heard seperately.

. Certified copy expedited.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.272 OF 1991.

DATE OF DECISION : 25TH NOVEMBER, 2004.

FOR APPROVAL AND SIGNATURE OF

THE HON'BLE SHRI JUSTICE V.M.KANADE.

1. Whether Reporters of Local Papers may be allowed to see the Judgement ?

2. Whether to be referred to the Reporter or not ?

3. Whether Their Lordships wish to see the fair copy of the Judgement ?

4. Whether this case involves a substantial question of law as to interpretation of the Constitution of India 1950 or any order made thereunder ?

5. Whether it is to be circulated to the Civil Judges ?

6. Whether the case involves an important question of law and whether a copy of the judgement should be sent to Nagpur, Aurangabad & Goa Offices ?

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